

## ***"OUT OF AFRICA" – TROUBLE IN PARADISE***

by Joerg Modellmog

After a rough winter, many of us are yearning for some warmer weather. What better idea than to cross the Mediterranean and spend some time in sunny northern Africa, where spring is already in the air... You may have already booked such a vacation, but watching the news and following the latest developments in that part of the world may lead you to reconsider your plans. Can you cancel your booking without incurring any penalties?

If you booked your vacation through a German travel agency or travel organizer, whether on-line or in person, your contract falls under German law, and, under § 651j of the German Civil Code, you may terminate the contract if the trip is "substantially obstructed, jeopardized, or impaired" due to unforeseeable severe circumstances (in legal terminology "*force majeure*").

Given the flexibility of these legal terms, you and your travel organizer could reach different interpretations, depending on whether you are easily scared. Therefore, some objective criteria need to be considered.

Like the US State Department, its German counterpart, the Foreign Ministry, issues travel advisories ("*Sicherheitshinweise*") and, in more severe cases, travel warnings ("*Reisewarnung*"). While the latter term implies a possible threat and potential danger, the first term already indicates a specific risk for travelers in general or in a certain area. But a travel advisory or travel warning is NOT a legal prerequisite to terminating your vacation contract.

You should follow the news coverage about your holiday destination, in order to obtain information on the situation in your designated vacation spot. It is possible that the foreign country is still at peace but there are already signs of unrest in your vacation area, or vice versa. In the end, if you wish to cancel your booking you will have to prove by an objective standard that your vacation would have been "substantially impaired." Reliable news coverage or travel advisories/warnings can be great supporting evidence.

Now, what happens if you are already on vacation when trouble breaks out? First of all, it's important to assess the impact of the unrest. If it happens only in the far-away capital city and you are in a quiet holiday resort area next to the beach, you are not affected, unless the unrest and protests are predicted to spread. Again, the "substantially impaired" standard applies.

If you have to leave because the situation is becoming too dangerous, any extra costs for the return transportation are to be split between you and the travel organizer. Keeping yourself informed about the current news and practicing good situational awareness should help you avoid any trouble in paradise, so that you don't wind up "Out of Africa."

***For more information on booking cancellation and related issues, make an appointment to see a Legal Assistance Attorney, by calling the Kaiserslautern Legal Services Center Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848. You should always consult the DoD Foreign Clearance Guide at <https://www.fcg.pentagon.mil> to determine whether country clearance is required for the country you plan to visit.***

